

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

BERNETHIA JOHNSON,)
)
Plaintiff,)
)
v.) Civil Action No. 2:07-CV-59-ID
) 2:06-CV-397-WKW
MICHAEL J. ASTRUE,)
COMMISSIONER OF)
SOCIAL SECURITY, et al.,)
)
Defendants.)

MOTION TO CONSOLIDATE

Come now Defendants, by and through Leura G. Canary, United States Attorney for the Middle District of Alabama, and move the court to consolidate the above actions to serve the interests of judicial economy and avoid the unnecessary expenditure of time and resources on duplicative discovery. In further support of this Request, Defendants shows as follows:

1.

Plaintiff filed her first lawsuit, case number 2:06-CV-397, against Defendants on May 2, 2006. This lawsuit alleged that Defendants violated Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq., when Defendants took various actions in mid 2004. Plaintiff filed her second lawsuit, case number 2:07-CV-59, on or about January 22, 2007, alleging that Defendants violated Title VII in relation to various actions taken in 2004 and 2005.

2.

Plaintiff's lawsuits both involve essentially the same witnesses and decision-makers. They also both include allegations concerning events that occurred in 2004. Accordingly, there is substantial overlap in the two lawsuits regarding claims, defenses, witnesses and discovery.

3.

Given the similarity of parties, claims and defenses, the interests of judicial economy would be served by joining the two lawsuits into one action under the number assigned to the first-filed lawsuit. This consolidation would prevent the need for the parties to take duplicative depositions in the two separate lawsuits of Plaintiff and the overlapping witnesses.

4.

Should the Court be inclined to grant this request, Defendants would also respectfully request that the Uniform Scheduling Order issued in case number 2:06-CV-397 be set aside, and as no such order has been entered in case number 2:07-CV-59, enter an order directing the parties to fulfill their obligations under Rule 26(f), Federal Rules of Civil Procedure in this new consolidated case.

5.

Defendants' counsel has discussed this consolidation motion with Plaintiff's Counsel, and Plaintiff's Counsel consents to the consolidation.

WHEREFORE, premises considered, Defendants respectfully request that the above- numbered cases be consolidated under case number 2:06-CV-397, that the existing scheduling order be set aside, and the parties be allowed to submit another proposed scheduling order for the consolidated case.

Respectfully submitted this the 25th day of April, 2007.

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United States Attorney

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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel for Plaintiff, Juraldine Battle-Hodge.

s/James J. DuBois
Assistant United States Attorney